

THE A.P. ASSIGNED LANDS (PROHIBITION OF TRANSFERS) ACT, 1977

ACT 9 OF 1977

(AS AMEND AS PER ACT 8 OF 2007 AND Act 21 of 2008)

THE A.P. ASSIGNED LANDS (PROHIBITION OF TRANSFERS) Rules ,2007.

By

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OBJECTIVES

- Condition of non-alienability is there. But, large chunk of assigned land was found alienated. It needed protection.
- There is no provision to punish the purchasers.
- The poor assignees are exploited.
- To have an Act on similar lines with that of the Andhra Pradesh Scheduled Areas Land Transfer Regulations Act, 1959.
- To facilitate the resumption of assigned land purchased and restored to the original assignee.
- To have penal provisions.

NON ALIENABILITY

- Lands assigned in Andhra area are heritable but not alienable, G.O.Ms.No.1142, dt.18.06.1954.
- Ex-servicemen are free to sell away the assigned land after 10 years, G.O.Ms.No.1117, dt.11.11.1993.
- The freedom fighters are free to sell away the assigned land and house sites after a period of 10 years, G.O.Ms.No.1045, dt.15.12.2004.
- Govt. issued Orders for issue of NOCs in case of Exservice men and Political Sufferers in GO 307 , Dated 6.6.2013- But the orders are withdrawn in GO 279 , Dated 14.7.2016.
- Completion of 10 years is sufficient – no disputes with Govt – if disputes , notified as per Sec 22 A(1)(e) of Registration Act .

NON ALIENABILITY --contd

- The Act is applicable for the land assigned for **Agricultural purposes and for house sites.**
- **Conditions** imposed in the Assignment Patta are important.

- Assigned lands can be used for – Horticulture, Sericulture, Animal Husbandry , Dairy development, **Pisiculture**, Aquaculture
GO Ms.No.128, dated 4.4.2016

IMPORTANT DEFINITIONS

- **“Assigned land”** means land assigned by the Government to the landless poor persons under the rules or the time being in force, **subject to the condition of non-alienation** and includes lands allotted or transferred to landless poor persons under the relevant law for the time being in force relating to land ceilings
- **“landless poor person”** means a person who owns an extent of land not more than 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land or such other extent of land as has been or may be specified by the Government in this behalf, from time to time and who has no other means of livelihood; Annual income is Rs 11000
- It is white card for House Sites 20000/24000
- **“transfer”** means any sale, gift, exchange, mortgage with or without possession, lease or any other transaction with assigned lands

PROHIBITION OF TRANSFER ASSIGNED LAND

- “Assigned land” shall not be alienated and if alienated it is not valid – **Sec.3(1)**
- No landless poor person shall transfer assigned land and no person shall acquire assigned land either by purchase, gift, lease, mortgage, exchange or otherwise – **Sec.3(2)**
- Any transfer or acquisition in contravention of Section 3(1) or 3(2) shall be **deemed to be null and void** – **Sec.3(3)**
- shall also apply to any transaction of the nature such as execution of a decree order of civil court or of any award or order of any authority – **Sec.3(4)**

REGULARIZATION OF TRANSFER UNDER SPECIFIC CONDITIONS (SEC.3(5))

- Act came into effect from 21.1.1977.
- The transfer/acquisition would have taken place before 21.01.1977.
- The transferee/the purchaser be a landless poor person and was eligible for assignment as on the date of purchase/alienation.
- Reasonable consideration would have been paid to the assignee.
- Clear documentary evidence must be there as regards to the date of transfer, status of landless poor of the purchaser and payment reasonable consideration.
- Burden lies on the purchasers /transferees to prove themselves that all three criteria are fulfilled.

ACTION TO BE TAKEN WHEN ASSIGNED LAND IS FOUND ALIENATED

- The Tahsildar shall issue notice in **Form-II** to the purchaser/ alienee.
- The Tahsildar shall issue notice in **Form-I** to the assignee.
- The details of land such as survey number, extent, description of land, the name of the assignee/transferor, the date and nature of transfer shall be specified in the notice in **Form-II**.
- The details of land such as survey number, extent, description of land, the name of the alienee / transferee, the date and nature of transfer shall be specified in the notice in **Form-I**.

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ACTION TO BE TAKEN WHEN ASSIGNED LAND IS FOUND ALIENATED --contd

- **Specific mention must be there to file written explanation within 15 days.**
- **Mention be there that why any crop/product raised on the land, buildings or other constructions shall not be forfeited.**
- **The notice must be served on adult male member/authorized agent/ affixing at some conspicuous place of the last known place of residence or on some conspicuous place in the land covered.**

PASSING OF FINAL ORDERS

- **Speaking order to be issued.**
- **Details of land, issue of notices in Form-I and Form-II, services of notices, methodology of service of notice to be specified.**
- **The particulars mentioned in the written explanation filed shall be verified with reference to the records and facts.**
- **All the objections/averments mentioned in the written explanation must be discussed.**

PASSING OF FINAL ORDERS

- No necessity to give personal hearing.
- If requested, personal hearing may be given.
- Whether the condition of Sec.3(5) is applicable or not shall be discussed if such claim is made .
- Concluded that Alienation is null and void
- further ordered that it shall be resumed ---- Sec 4(1) (a)
- The final orders must be served on the transferee in the similar manner as was the notice in Form-II is served.

DISPOSAL OF THE ASSIGNED LAND RESUMED

(BEFORE THE ACT WAS AMENDED IN THE YEAR 2007)

- Shall be restored to the original assignee/his/her legal heirs. Sec 4(1) (b)
- If alienated for the second time after once it was restored under the provisions of the Act, shall not be restored for the second time.
- When the assignee/legal heirs are not available or not willing to accept the restoration or alienated the land once restored, it shall be assigned to other landless poor in the village.
- If no other landless poor is available, it can be used for public purposes.

DISPOSAL OF THE ASSIGNED LAND RESUMED

(AFTER THE ACT WAS AMENDED IN THE YEAR 2007)

- If the land has been notified under **Sec.4(1)(c)** of the Act, the land resumed shall be used for public purposes.-----Such as Weaker Section Housing, Public utility, Infrastructure development, Promotion of Industries and Tourism or for any other public purpose.
- Notification under **Sec.4(1)(c)** would have to be issued by the Government in **Form-V**.
- If the land is not notified under **Sec.4(1)(c)**, it shall be restored under **Sec.4(1)(b)** to the original assignee/his/her legal heirs, **if eligible as on the date of restoration.** --contd

DISPOSAL OF THE ASSIGNED LAND RESUMED

(AFTER THE ACT WAS AMENDED IN THE YEAR 2007) --contd

AMENDED ACT DEEMED TO HAVE COME IN TO EFFECT 21-01-1977 SO FAR AMENDMENT TO SEC 4 IS CONCERNED

- However, if the assignee has alienated the land for the second time after once it was restored under the provisions of the Act, it shall not be restored for the second time.**

- When the assignee/legal heirs are not available or not eligible for assignment as on the date of restoration or not willing to accept the restoration or alienated the land once restored, it shall be assigned to other landless poor in the village.**

- If no other landless poor is available, it can be used for public purposes.**

DISPOSAL OF THE ASSIGNED LAND RESUMED
(AFTER THE ACT WAS AMENDED IN THE YEAR 2008) --contd

----- If land is not notified under Sec 4(1)(c)

- regularised if purchased on or before 29-1-2007-good faith-reasonable consideration – Land less poor – limit up to 5.00Acs dry / 2.50 wet including land if any already held..**

- SO FAR NOT COME IN TO EFFECT.**

OTHER IMPORTANT ASPECTS

- The District Collector or any Authorised Officer shall furnish the list of assigned land to the Sub-Registrar within 45 days in **Form –IV** from the date of commencement of the Amended Act, 2007. **Sec 5 (1).**
- No assigned land is registered by any Sub-Registrar. **Sec 5 (2).**
- *Must be furnished under Sec 22A(1)(a) of Registration Act*
- When the assigned lands held on **mortgage** by State or Central Government, any local authority, a cooperative society, a scheduled bank or such other financial institution owned, controlled or managed by a State Government or Central Government – the provisions are not applicable - **Sec.6**
- No civil suit against the proceeding are liable against the officers and the damages caused are likely to be caused to the transferees. **Sec.8**

PENALTIES

- If any person who has purchased assigned land fails to surrender within **90 days** from the date of commencement after amended Act, 2007 is liable to be prosecuted – punishment of imprisonment for period up to 6 months or with fine up to 2000 or with both – **Sec.7(1)**
- Any person opposes / impedes in taking possession of the land is punished with imprisonment for period up to 6 months or with fine up to 5000 or with both – **Sec.7(2)**
- Any **Officer** who violates the provisions of the Act (Sec 5 (1) and (2), is liable to be prosecuted – punishment of imprisonment for period upto 6 months or with fine or with both – **Sec.7(2A)**
- However, prosecution has to be launched with the **prior sanction of the District Collector.**

APPELLATE AND REVISION AUTHORITIES

- First appeal lies to Revenue Divisional Officer on the orders passed by the Tahsildar within **90** days – **Sec.4(A)(1)**.
- Second appeal lies to the Collector under **Sec.4(A)(2)** against the order passed by the R.D.O. under **Sec.4(A)(1)**.
- Revision under **Sec.4(B)** lies to the District Collector in respect of any proceeding not being covered by **Sec.4(A)(2)** -----
TO **Government** on against any proceeding either suomoto or on an application made.
- The revision to be filed within **90** days.
- The correctness, the regularity, legality or propriety of any decision or order passed can be modified, annulled, remitted for reconsideration.

GENERAL ISSUES RAISED IN THE WRITTEN EXPLANATIONS FILED BY THE TRANSFEREES AND THE RELEVANT FACTORS TO BE LOOKED INTO AND SHALL BE COVERED IN THE FINAL ORDERS

Sl. No	Issue raised	Observations to be made in the order as per the facts
1	The alienee has got Adverse possession on the land .	Adverse possession for a period of 30 years to be there with valid documentary support and orders have to be obtained from the competent authority. Thirty years before 21.01.1977
2	The alienee is poor.	Whether poor or not, the alienation of assigned land after 21.01.1977 is null and void.
3	The alienee purchased through registered sale deed.	1.If the date of purchase is after 21.01.1977 – the purchase is null and void. 2.If the purchase is before 21.01.1977,- to be verified whether criteria to regularise u/ s 3 (5) are there or not .

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Sl. No	Issue raised	Observations to be made in the order as per the facts
4	The Tahsildar has issued a certificate that the land is not Govt. land / assigned land.	Taking shelter under the certificate fraudulently issued by the Tahsildar does not give any right to the alienee over the land as the land is the assigned land.
5	The Tahsildar has issued pattadar pass book / titled deed.	Taking shelter under the pattadar pass book / titled deed fraudulently issued by the Tahsildar does not give any right to the alienee over the land as the land is the assigned land.
6	No objections were there from anyone including the original assignee.	Whether some one objects or not is not the matter to be considered. It is whether the acquisition of the land is in violation of Sec.3(1) or 3(2) of Act, 9 of 1977.

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SI No	Issue raised	Observations to be made in the order as per the facts
7	The original assignee is not claiming restoration and is not ready to accept the land if restored.	– it does not give any right to the purchaser of the assigned land and the land resumed will be disposed of accordingly.
8	The alienee has spent huge amounts.	Knowing that the purchase of assigned land is a violation of Act 9 of 1977, spending of the money was absolutely at the risk of the alienee and the same does not confer any right at all.

SIN o	Issue raised	Observations to be made in the order as per the facts
9	Innocent as regards to verification of diglot / fairadangal	Ignorance is not an excuse
10	It has been recorded in the copies of adangal as patta land – not as assigned land.	The entries in adangal are not conclusive - diglot / fairadangal / sethwar give the nature of the land.
11	He has paid reasonable consideration to the transferor.	It does not give the entitlement for regularisation if other two conditions of purchase before 21.01.1977 and the status of landless poor as on the date of purchase are not fulfilled.

Thank You